



Poland

Country Reports on Human Rights Practices - [2002](#)

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Poland is a multiparty parliamentary democracy in which executive power is shared by the Prime Minister, the Council of Ministers, and, to a lesser extent, the President. Alexander Kwasniewski was reelected President in free and fair elections held in October 2000. The Parliament is bicameral (Senate and Sejm). Free and fair parliamentary elections held in September 2001 resulted in a change in Government. The social democratic (post-Communist) Democratic Left Alliance (SLD) formed a majority coalition government with the Union of Labor (UP) and the Polish Peasant Party (PSL). The judiciary is independent; however, it was inefficient.

Internal security forces consist of local police, a national office of investigation, and city guards, who are uniformed, unarmed officers. The armed forces were subject to effective civilian control. Since 1996 the civilian Minister of Defense has had clear command and control authority over the military chief of the general staff as well as oversight of military intelligence. Civilian control was reinforced further by a restructuring of the Ministry of Defense and general staff undertaken as part of the country's entry into NATO in 2000. Security forces committed a few abuses.

The transition economy has a vibrant private sector (including small- and medium-sized industries formerly state owned), which accounted for over two-thirds of gross domestic product. Unreformed heavy industries and agriculture (which employed more than 25 percent of the labor force) lagged other sectors in productivity and growth. The country's population was approximately 39 million.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were reports that police mistreated persons in refugee camps. Prison conditions remained generally poor. A cumbersome legal process, poor administration, and an inadequate budget hampered the court system, and court decisions frequently were not implemented. Lengthy pretrial detention occurred occasionally. The Government restricted the right to privacy. There were a few restrictions in law and in practice on freedom of speech and of the press. Violence against women continued to be a problem. Women continued to experience serious discrimination in the labor market and were subject to various legal inequities. Child prostitution was a problem. There were incidents of desecration of graves in both Jewish and Catholic cemeteries, and anti-Semitic sentiments persisted. There were reports of some societal discrimination and violence against ethnic minorities. Some employers violated worker rights, particularly in the growing private sector, and antiunion discrimination persisted. Trafficking in women and children was a problem. Reform of the country's political and economic structure led to an invitation in December to join the European Union (EU) in May 2004. Poland was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In 1999 a police officer convicted and sentenced for the 1998 beating death of 13-year-old Przemek Czaja in the city of Slupsk appealed a judicial decision that increased his sentence to 8 years. The officer's appeal was denied

in 2001, and he is now serving his sentence. A civil case in which Czaja's family is demanding \$12,500 (50,000 PLN) from the Pomeranian police remained pending at year's end.

A police officer convicted of the 1997 shooting deaths of two unarmed civilians and the wounding of another in Brodno, a suburb of Warsaw, was sentenced in 1999 to 7 years in prison but remained free pending his appeal. In February the Supreme Court upheld the verdict; however, on April 6, President Kwasniewski pardoned the policeman at the request of the Prime Minister and the Minister of the Interior.

Several trials--began in 1999 and 2000--related to extrajudicial killings during the Communist period continued. In October 2001, a Katowice court found the riot police accused of killing miners during martial law under the Communist regime not guilty. The retrial of former Communist Interior Minister Czeslaw Kiszczak for his role in the pacification of the Wujek mine in 1981 remained pending. On December 9, a Warsaw district court acquitted General Wladyslaw Ciaston, one of the two former Communist Security Services generals accused of having directed the 1984 torture and killing of Father Jerzy Popieluszko.

On October 16, 2001, the Warsaw District Court convened a new trial against former Communist leader Jaruzelski and five other defendants who allegedly ordered police to shoot workers during the 1970 riots in Gdansk. Witnesses were interviewed in November, and the case remained pending at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices; however, there were reports that police mistreated persons in refugee camps (see Section 2.d.).

In August three of the seven riot policemen who were on trial for their participation in the 1997 beating of soccer fans in Gdynia accepted their sentences. They were fined, sentenced to 2 years of probation, and prohibited from working as law enforcement officers for 2 years. The trial for the remaining four defendants remained pending at year's end.

Prison conditions remained generally poor. According to reports by nongovernmental organizations (NGOs), overcrowding, damp cells, and a lack of medical treatment were the chief problems. The prison system urgently needed additional funding, and the Government acted to address the problem by increasing the prison system's budget by 15 percent. The funds were used to renovate more than 30 prison facilities and build additional cells for a total of 336 prisoners in 5 facilities. A new prison for 600 prisoners was under construction in Piotrkow Trybunalski, and new divisions were opened for violent and dangerous prisoners in 6 existing prisons. However, the Ombudsman for Human Rights continued to complain about the safety of prisoners, noting that inmates were often the victims of violent attacks by other prisoners. Civil litigation against the prison administration in the 1996 case of an 18-year-old mentally retarded boy who was beaten and sodomized by fellow inmates was appealed to the Supreme Court in April and remained pending at year's end. Reportedly the ratio of prisoners to rehabilitation officers was very poor. Women were held in 21 detention facilities, but only 5 were strictly for women; in the remaining 16 detention facilities, men and women were held separately. Juveniles under the age of 24 were held separately from adults, and pretrial detainees were held separately from convicted prisoners.

The Government permitted visits by independent human rights organizations. During the year, the Human Rights Ombudsmen monitored 20 detention facilities, and the Helsinki Foundation visited 10 facilities; some of the visits were announced, and some were unannounced prior to the visit.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. Courts rather than prosecutors issue arrest warrants. The law allows a 48-hour detention period before authorities are required to bring a defendant before a court and an additional 24 hours for the court to decide whether to issue a pretrial detention order. During this period, access to a lawyer normally is limited. Once a prosecutor presents the legal basis for a formal investigation, the law provides for access to counsel. Bail was available, and most detainees were released on bail pending trial.

Detainees may be held in pretrial detention for up to 3 months and may challenge the legality of an arrest through appeal to the district court. A court may extend this pretrial confinement period every 3 months for up to 18 months until the trial date. The total time of temporary arrest until the first sentence rendered by the court of lower instance may not be more than 2 years. However, under certain circumstances, the 2-year period may be extended further by the Supreme Court.

The Constitution prohibits forced exile, and the Government did not employ it.

e. Denial of Fair Public Trial

The Constitution provides for the right to a fair trial, and an independent judiciary and the Government generally enforced this right; however, the judiciary remained inefficient and lacked resources and public confidence.

There is a four-tiered court and prosecutorial structure. The courts consist of regional, provincial, and appellate divisions, as well as a Supreme Court. These tiers are subdivided further into five parts: Military, civil, criminal, labor, and family. Regional courts are courts of first instance, while appellate courts are charged solely with appeals. Provincial courts have a dual responsibility, handling appeals from regional courts while enjoying original jurisdiction for the most serious types of offenses. Appellate courts handle appeals tried at the provincial level, and the Supreme Court only handles appeals about questions of law. The prosecutorial system mirrors the court structure with national, provincial, appellate, and regional offices. Criminal cases are tried in regional and provincial courts by a panel consisting of a professional judge and two lay assessors. The seriousness of the offense determines which is the court of first instance.

Judges are nominated by the national judicial council and appointed by the President. They are appointed for life, guaranteed complete immunity from prosecution, and can be reassigned but not dismissed, except by a court decision. The Constitutional Tribunal rules on the constitutionality of legislation. Constitutional Tribunal decisions are final and binding.

The Government continued to restructure the court system in order to streamline and accelerate the legal process; however, the court system remained cumbersome, poorly administered, inadequately staffed, and underfunded. There were numerous inefficiencies--most notably, many districts had more criminal judges than prosecutors. These factors contributed to a lack of public confidence. Many effective judges and prosecutors left public service for the more lucrative private sector. Court decisions frequently were not implemented. Bailiffs normally ensured the execution of civil verdicts such as damage payments and evictions; however, according to some observers, they were underpaid, subject to intimidation and bribery, and had a mixed record of implementing court decisions. Civil and administrative rulings against public institutions such as hospitals often could not be enforced due to a lack of funds. At the beginning of the year, there were 2 million cases pending from years prior to 2001. Simple civil cases can take as long as 2 to 3 years before resolution, and the pretrial waiting time in criminal cases can be several months. The backlog and the costs of legal action appeared to deter many citizens from using the justice system, particularly in civil matters such as divorce. The long wait for routine court decisions in commercial matters was an incentive for bribery and corruption.

The law requires that disciplinary procedures be taken against those judges accused of violating judicial independence by issuing unjust verdicts between 1944 and 1989 at the request of the Communist authorities. The deadline to file cases was December 31. Such cases may be initiated by the Minister of Justice, the presidents of the appellate or regional courts, the National Judiciary Council, or by individuals who felt wronged by court verdicts. According to the National Judiciary Council, a total of 19 cases were filed against judges, all prior to 2002.

All defendants are presumed innocent until proven guilty. At the end of a trial, the court renders its decision orally and then has 7 days to prepare a written decision. A defendant has the right to appeal within 14 days of the written decision. Appeals may be made on the basis of new evidence or procedural irregularities.

Once formal charges are filed, the defendant is allowed to study the charges and consult with an attorney, who is provided at public expense if necessary. Once the defendant is prepared, a trial date is set. Defendants are required to be present during the trial and may present evidence and confront witnesses in their own defense. However, prosecutors have the authority to grant witnesses anonymity at trial if they express fear of retribution from the defendant. This law, designed to help combat organized crime, impairs defendants' right to confront their accusers. Trials are usually public; however, the courts reserve the right to close a trial to the public in some circumstances, such as divorce cases, trials in which state secrets may be disclosed, or cases whose content might offend "public morality" (see Section 1.f.). The courts rarely invoked this prerogative. A two-level appeal process is available in most civil and criminal matters.

The law allows a defendant and a representative, in addition to the prosecutor, to be present for a provincial appellate court's examination of a verdict.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions; however, the Government did not always respect these prohibitions in practice. The Constitution provides for the general right to privacy; however, there is no legislation that provides for this right.

The law forbids arbitrary forced entry into homes, and search warrants issued by a prosecutor are required to enter private residences. In emergency cases, when a prosecutor is not immediately available, police may enter a residence with the approval of the local police commander. In the most urgent cases, in which there is no time to consult with the police commander, police may enter a private residence after showing their official identification. There were no reports that police abused search warrant procedures.

A 1998 law prohibits the collection of information about a person's ethnic origin, religious convictions, health condition, political views, or membership in religious, political, or trade union organizations. The law allows for certain exceptions, specifically, the gathering of information without a person's permission by courts, hospitals, or organizations if the information pertains to their members. All exceptions are subject to some restrictions. Despite being illegal, a few restrictive practices such as a requirement to fill out "creed" or "nationality" items in some questionnaires continued. For example, some nongovernmental entities persisted in asking for such information; although violators are subject to prosecution, there were no known cases during the year.

The Government maintained, without judicial review or oversight, a large number of wiretaps. The law permits police and intelligence services to monitor private correspondence and to use wiretaps and electronic monitoring devices in cases involving serious crimes, narcotics, money laundering, or illegal firearm sales. Under the Criminal Code, the Minister of Justice and the Minister of Interior, both political appointees, must authorize these investigative methods. In emergency cases, the police may initiate an investigation that utilizes wiretaps or the opening of private correspondence at the same time that they seek permission from the ministers. There were no credible estimates on the number of such wiretapping devices installed at the request of the police.

Parliamentarians and human rights groups expressed concern about the lack of control over wiretap surveillance. There was no independent judicial review of surveillance activities, nor was there any control over how the information derived from investigations was used. A growing number of agencies had access to wiretap information, and the Police Code allows electronic surveillance to be used for the prevention of crime as well as for investigative purposes. As is the case under the Criminal Code, police must obtain permission from the Ministers of Justice and Interior before initiating wiretap procedures.

The law on "lustration" or vetting, designed to expose government officials who collaborated with the Communist-era secret police, bans from office for 10 years those persons caught lying about their past. The law requires officials to provide sworn affidavits concerning their possible cooperation with the secret police; the public interest spokesman (lustration prosecutor) then verifies the affidavits and brings suspected cases of misrepresentation before the lustration court, a special three-judge panel whose decisions may be appealed. In February legislation was enacted exempting persons who cooperated with intelligence and counterintelligence agencies from lustration. In June the Constitutional Tribunal found this legislation to be unconstitutional for reasons relating to parliamentary procedure rather than substance. In October a new law was enacted--this time in accordance with the Tribunal's procedural ruling--containing the same provisions as the earlier legislation. In 2000 several high-profile cases came before the court, including that of a Deputy Defense Minister who was judged to have lied in his affidavit; in November the Supreme Court returned the case to the appellate court, and the appellate court upheld its earlier ruling. Many of these cases were closed to the public because they involved classified documents (see Section 1.e.). Critics continued to voice concern that the procedure of vetting politicians may be unfair, in view of the likelihood that secret police records were subject to loss or tampering. In 2000 Parliament agreed on a chairman for the Institute of National Remembrance, a body mandated by the lustration law to organize all Communist-era secret police files and give citizens access to their files.

Men are not permitted to marry without parental permission until the age of 21, whereas women may marry at the age of 18 (see Section 5).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights; however, there are a few restrictions in law and practice. The Criminal Code states that an individual who "publicly insults or humiliates a constitutional institution of the Republic of Poland" is subject to a fine or imprisonment of up to 2 years, while an individual who insults a public functionary is subject to a fine or imprisonment of up to 1 year.

The daily newspaper *Zycie*'s appeal of a Warsaw district court ruling that ordered it to apologize to President Aleksander Kwasniewski for publishing untrue information remained pending at year's end; however, in December *Zycie* went bankrupt and ceased publication, leaving unclear the effect on its legal appeal. Individual citizens and businesses may also use the Criminal Code provision to protect their good name." The 1999 case of Andrzej Lepper, who was accused of insulting Prime Minister Jerzy Buzek and state officials, was dismissed in January. There was no progress during the year in the investigation into the case of Mikolaj Siwicki for attempting to publish a hate-mongering book that allegedly could damage the nation's interests, and further action appeared unlikely.

The Criminal Code stipulates that offending religious sentiment through public speech is punishable by a fine or a 3-year prison term.

The law allows for the prosecution of citizens who publish or otherwise betray state secrets. Human rights groups have criticized this law, arguing that it restricts freedom of speech.

The Criminal Code regulates the protection of journalistic sources. The code grants news sources protection, except in cases involving national security, murder, and terrorist acts. Pursuant to the law, statutory provisions are applied retroactively if their terms are beneficial to the accused. Journalists who refused to divulge sources prior to the new code's enactment also can avoid sanctions by invoking "journalistic privilege."

There is no restriction on the establishment of private newspapers or distribution of journals, and there were numerous private newspapers and magazines representing a wide variety of viewpoints.

The National Radio and Television Broadcasting Council (KRRiTV) has broad powers in monitoring and regulating programming on radio and television, allocating broadcasting frequencies and licenses, and apportioning subscription revenues to public media. To encourage the KRRiTV's apolitical character, the nine KRRiTV members are obliged legally to suspend any membership in political parties or public associations. However, they were chosen for their political allegiances and nominated by the Sejm, the Senate, and the President following political bargaining, thus raising questions about the independence of broadcasting oversight from political influence.

The Government owns the most widely viewed television channel and 17 regional stations. Center-right politicians, watchdog institutions, and commentators accused public television of being influenced by politicians from the ruling SLD and PSL parties. Members of these parties have majority seats in supervisory and management boards in public television and radio.

Although public television remains a major source of news and information, private broadcast television, satellite, and private cable services (domestic and foreign) are available across most of the country. Private television broadcasters operate on frequencies selected by the Ministry of Communications and auctioned by the KRRiTV. Polish Television (TVP) and its two channels remained the most widely viewed television in the country (with joint market shares of over 50 percent), but it has faced strong competition from the two private networks, TVN and Polsat. The new broadcasting company, Catholic TV, which presented a conservative point of view, had a viewership below 1 percent. Cable television and various satellite services, as well as global frequencies, carried the main public and private television channels, as well as local and regional stations and a variety of foreign offerings to viewers throughout the country.

The Government owned 5 national radio networks. Private radio flourished on the local, regional, and national levels alongside public radio. During the year, the KRRiTV renewed virtually all radio licenses. The three most popular nationwide radio stations were public Polish Radio Channel 1 and the private commercial stations Radio ZET and RMF FM. Companies with shares in nationwide dailies expanded networks with local radio stations. In a cost cutting move, small local radio stations set up several networks for facilitating advertising and programming matters.

The Broadcasting Law stipulates that programs should not promote activities that are illegal or against state policy, morality, or the common good. The law, whose constitutionality has been confirmed by the Constitutional Tribunal,

requires that all broadcasts "respect the religious feelings of the audiences and in particular respect the Christian system of values." This provision has never been used as a means of censorship, although in theory it could be so used.

The Broadcasting Law on radio and television also requires public television to provide direct media access to the main state institutions, including the presidency, "to make presentations or explanations of public policy." The President and the Prime Minister complained occasionally of the other's abuse of the access privilege. Both public and private radio and television stations provided coverage of all ranges of political opinion.

Books expressing a wide range of political and social viewpoints were widely available, as were periodicals and other publications from abroad.

The Internet was available widely and was not regulated or restricted.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

Permits are not necessary for public meetings but are required for public demonstrations; demonstration organizers must obtain these permits from local authorities if the demonstration might block a public road. For large demonstrations, organizers also are required to inform the local police of the time and place of their activities and their planned route. Every gathering must have a chairperson who is required to open the demonstration, preside over it, and close it. Permits for public gatherings were issued on a routine basis. In March a regional court in Slubice sentenced rightist politician Andzej Lepper to 1 year of prison (suspended) and 4 years of probation for organizing an illegal blockade of the Polish-German border crossing in Swiecko in 1999.

Private associations need government approval to organize and must register with their district court. The procedure essentially requires the organization to sign a declaration that commits it to abide by the law; however, in practice the procedure is complicated and may be subject to the discretion of the judge in charge.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

There are 15 religious groups in the country whose relationship with the State is governed by specific legislation and 141 other religious communities. The legislation outlines the internal structure of the religious groups, their activities, and procedures for property restitution.

Although the Constitution provides for the separation of church and state, crucifixes hang in both the upper and lower houses of Parliament, as well as in many government offices. State-run radio broadcasts Catholic mass on Sundays, and the Catholic Church is authorized to relicense radio and television stations to operate on frequencies assigned to the Church, the only body outside the National Radio and Television Council allowed to do so.

Religious communities may register with the Government; however, they are not required to do so and may function freely without registration. Registration requires that the group submit the names of 100 members as well as information regarding the group itself. This information on membership must be confirmed by a notary public, although the registration itself often appears to be a formality. There were no new churches registered during the year. All churches and recognized religious groups share the same privileges, such as duty-free importation of office equipment and reduced taxes.

In April the Government closed a department it had established in 2001 within the Ministry of Interior to monitor the activities of "new religious groups and cults."

Public concern persisted regarding the growth of groups perceived to be "sects" and the influence of nonmainstream religious groups.

The Criminal Code stipulates that offending religious sentiment through public speech is punishable by a fine or a 3-year prison term (see Section 2.a.).

Progress continued in implementing the laws that permit local religious communities to submit claims for property owned prior to World War II that subsequently was nationalized. The laws governing restitution of communal property allow for the return of churches and synagogues, cemeteries, and community headquarters, as well as buildings that were used for other religious, educational, or charitable activities.

Although the Constitution gives parents the right to bring up their children in accordance with their own religious and philosophical beliefs, religious education classes continued to be taught in the public schools at public expense. While children are supposed to have the choice between religious instruction and ethics, the Ombudsman's office states that in most schools, ethics courses were not offered due to financial constraints. Catholic Church representatives were employed to teach religious classes in the schools. Such classes constituted the vast majority of all religious education classes offered, since the population of the country was approximately 95 percent Catholic. However, parents can request religious classes in any of the religions legally registered, including the Protestant, Orthodox, and Jewish religions. Such non-Catholic religious instruction existed in practice, although it was not common; the Ministry of Education pays the instructors. Priests and other instructors received salaries from the state budget for teaching religion in public schools, and Catholic Church representatives were included on a commission that determines whether books qualify for school use.

Relations between the various religious communities were generally amicable; however, sporadic incidents of harassment and violence against Jews and occasional desecration of Jewish, and more often, Catholic cemeteries continued, mostly generated by skinheads and other marginal elements of society.

On September 1, 70 tombstones in Czeladz were knocked down or desecrated with anti-Semitic and Nazi slogans; a police investigation remained pending at year's end. Between September 8 and 10, 70 tombstones were knocked down in a Jewish cemetery in Wroclaw. Approximately 400 citizens volunteered in a subsequent campaign to make repairs.

While anti-Semitic feelings persisted among certain sectors of the population, surveys in the past several years showed a continuing decline in anti-Semitic sentiment, and avowedly anti-Semitic candidates have won few elections. However, some far-right Members of Parliament made anti-Semitic remarks in a parliamentary debate over the activities of the National Remembrance Institute (IPN).

In April during the 14th March of the Living from Auschwitz to Birkenau to honor victims of the Holocaust, several hundred citizens joined 1,500 marchers from Israel and other countries.

Legal proceedings against 2 persons who were arrested in connection with the attack on the Buddhist Center of Krakow in 2000 remained pending at year's end, and no action appeared likely.

In 2001, on Polish Independence Day, approximately 400 Polish ultra nationalists who chanted anti-Semitic and anti-EU slogans marched through the heavily industrialized city of Katowice. The march culminated in a rally at which demonstrators burned the Israeli and EU flags. Local authorities initiated an official investigation to determine whether identifiable demonstrators should be charged with violating laws that prohibit displays of Fascist symbols and public insults to persons on the basis of national, ethnic or racial identity. The investigation remained pending at year's end.

In 2001 President Kwasniewski presided over a ceremony commemorating the 1941 killing of several hundred Jews in the town of Jedwabne. The President acknowledged Polish participation and apologized in the name of the country and unveiled a new memorial that replaced a plaque stating that Germans alone were responsible. The National Memory Institute continued its investigation of the Jedwabne massacre.

For a more detailed discussion see the 2002 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Although the Constitution does not address freedom of movement, the Government generally respected these rights in practice. The Government does not restrict internal or foreign travel; under the law, citizens cannot be refused the right to return to the country; and there are no restrictions on emigration.

The law provides for the granting of refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Persons recognized as refugees under the Convention are granted permission to remain in the country permanently. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government received 5,158 petitions for refugee status (compared with 4,506 in 2001), and 258 of the petitions were approved.

The 1997 Aliens Act, as amended in 2001, gave all prospective refugees access to a procedure for adjudicating refugee status and established an independent board to which prospective refugees can appeal negative status decisions by the Ministry of Internal Affairs. The amended Act created the Bureau of Repatriation and Aliens (BRA), which began operating in 2001. This office controls the various refugee centers and agencies and has some political control over the border guards. The Border Guard Academy includes significant training on the handling of potential refugees.

The amended Aliens Act created an expedited system of refugee processing; however, the Government's implementation of the amendments has been slow and continued at year's end. Under the Act, aliens should receive an answer to their petition within 2 days. If denied they may appeal to the BRA's refugee board, which is required to respond within 5 days. If their claims are found to be "manifestly unfounded," they are denied and no further appeal is available to them. However, refugee rights groups reported that processing time continued to range from 4 months to 2 years. The Aliens Act calls for a decision granting or denying asylum to be rendered within 6 months from the date of the initiation of the procedure; however, in practice decisions can take up to 2 years from the time of the application. Refugee rights groups complained about applicants living in legal limbo, unable to work legally, while awaiting decisions on their cases.

The law does not recognize the concept of first asylum or any other form of temporary protection. However, the Aliens Act as amended during the year includes the category of humanitarian assistance as a reason for resettling aliens. Previously the Government only had categories for asylum seekers and for refugees. The new category was created for those who do not qualify as refugees but who cannot be returned to their countries of origin; however, the law's practical implications were untested.

In 2000 the UNHCR expressed concern over the fate of unaccompanied children seeking asylum in the country. It urged that procedures and practices concerning the appointment and maintenance of supervisors and guardians for unaccompanied minors be improved. During the year, the situation improved for unaccompanied minors. In November there were 19 unaccompanied minors, all of whom were housed at the Debak Refugee Center, where there is a small library, play area, and some educational facilities. The minors were able to attend local schools while awaiting a decision on their asylum application. The continued influx of Chechen refugees during the year kept the refugee centers crowded, and ethnic and cultural conflicts occasionally occurred as a result.

Many of the problems that the Government faces in dealing with aliens present in the country centered around funding. The Government received significant EU support for upgrading its refugee processing system, which includes money for such things as fingerprinting equipment and running the refugee centers. However, the Government had very little money to send aliens who had been denied status back to their country of origin. Most denied applicants simply received a letter informing them that their petition has been denied and that they should leave the country. The Government did not have funds to help assimilate those persons who receive permission to reside permanently in the country. Refugees may receive the same subsidies given to citizens living below the poverty line, but no additional money was available to them. The approved petitioners received funds from various NGOs, which covered only basic living needs, and no services such as language training, medical care, or other social benefits.

The country was a destination for refugees, rather than simply a transit point. The UNHCR reported that significantly fewer persons were abandoning their refugee applications and that fewer persons were leaving the country after receiving status.

There were no reports of the forced return of persons to a country where they feared persecution; however, the UNHCR reported isolated incidents of border guards turning away potential refugees. In particular there were reports that Chechen and Afghan asylum applicants encountered difficulties with admission to the country when arriving from Ukraine and Belarus to submit asylum applications in Poland. However, in October 2001, the BRA stated that they no longer would use the internal flight alternative as a reason to deny Chechen asylum applications. The BRA estimated that approximately 4.5 to 5 percent of all asylum seekers received refugee status, while 10 to 15 percent of all Chechen asylum applicants were granted refugee status.

There were reports of the harassment of refugee camp inhabitants by local persons, and there were some reports of mistreatment by police. Several Chechen and Afghan asylum seekers alleged harassment ranging from verbal abuse to forcible removal from one location (usually refugee camps or shelters) to another. There were no formal investigations during the year. Some complaints related to the transfer of asylum seekers from the cities to the countryside. Government officials stated that any relocation was to improve conditions, not harassment.

The UNHCR and the Helsinki Foundation have been working with government officials, police, and hospital personnel to sensitize them to the plight of refugees and train them in better ways of handling refugees.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. All citizens 18 years of age and older have the right to vote and to cast secret ballots, and voting is voluntary. Multiple candidates from various political parties participated in the elections and had access to the media.

The country is a multiparty democracy. Executive power is divided between the President and a government chosen by the Sejm, or lower house of Parliament. There is also an upper house (the Senate). The Constitution provides for parliamentary elections at least once every 4 years. The President, elected for 5 years, has the right, in certain very limited cases and after seeking the opinion of the Speakers of the Sejm and the Senate, to shorten the Sejm's term of office. Whenever the Sejm's term of office is shortened, the Senate's term automatically is shortened as well. Parliament may impeach the President.

There were no restrictions on the participation of women in politics or government. There were 93 women among 460 members of the Sejm and 22 women among the 100 members of the Senate. There was one woman in the 16-member Cabinet (Minister of Education).

There were two members of the German minority party in the Parliament (see Section 5). The electoral law exempts ethnic minority parties from the requirement to win 5 percent of the vote nationwide to qualify for seats in individual districts.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The Helsinki Foundation, a major NGO, conducted human rights investigations without government interference. Members of the foundation reported that the Government displayed a generally positive and helpful attitude towards human rights investigations.

The Office of the Commissioner for Civil Rights Protection (the Ombudsman) is the Government's watchdog for human rights. The Ombudsman's office was an effective, independent body with broad authority to investigate alleged violations of civil rights and liberties. The Ombudsman registered each reported case and filed grievances, where appropriate, with the relevant government office. The Ombudsman has no legislative authority, no powers of enforcement, and is sworn to act apolitically. The Government cooperated with the Ombudsman.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution states that "no one shall be discriminated against in political, social, or economic life for any reason whatsoever," and the Government attempted to ensure that these provisions are observed; however, violence and societal discrimination against women and ethnic minorities persisted.

Women

Violence against women continued to be a problem. While no comprehensive surveys document the problem adequately, the Women's Rights Center estimated that 23 percent of women have been victims of domestic violence, and the NGO La Strada reported that 18 percent of married women admitted to being victims of physical abuse by their husbands. Police statistics indicated that approximately 67,000 women were victims of domestic

violence in 2001. Women's organizations asserted that the number of women suffering from domestic abuse is probably much higher because battered women usually refused to admit abuse even to themselves. Violence against women remained hidden, particularly in small towns and villages. Government and police statistics do not differentiate between male and female victims of violence. Physical abuse is illegal and spousal rape is treated in the same manner as other types of rape. Police intervened in cases of domestic violence. The police, in cooperation with the State Agency for Solving Alcoholic Problems, continued to maintain the "blue card," a record-keeping system designed to document incidents of spousal abuse. Law enforcement personnel continued to use the Blue Card Program, although with limited effect due to inadequate funding. Sentences for abuse of family members range from 3 months to 5 years, or from 2 to 10 years if the victim attempts suicide as a result of the abuse. Most convictions (83 percent) resulted in suspended sentences. A police spokesman stated that there were 24,200 cases of family abuse reported in 2001, of which 213 involved particularly severe abuse. According to NGOs, the courts often treated domestic violence as a minor crime, pronounced lenient verdicts, or dismissed cases.

In 2001 there were 2,339 rape cases reported. However, NGOs reported that women often were unwilling to report the crime and estimated that the actual number of rapes was 10 times higher than that reported.

According to the Women's Rights Center Report, there was significant progress in raising public awareness of the problem of violence against women. NGOs indicated that this was one factor in the government's increasingly receptive position on women's issues. Other reasons included legislation required for Poland's accession to the EU and the creation of the vice-ministerial position of Plenipotentiary for the Equal Rights of Women and Men. In addition, NGOs operated 15 centers to assist victims, provide preventive treatment as well as resocialization counseling to perpetrators, and train personnel working with victims of domestic violence. The Office of Victims' Rights Spokesman at the Ministry of Internal Affairs and Administration has responsibility to ensure that victims of violence are treated with respect by law enforcement and the judicial system. The office provides legal and psychological assistance for victims and their families.

The law has no provision for restraining orders to protect battered women against further abuse. For example, in divorce cases, courts frequently granted a divorce but did not issue a property settlement, forcing women to return to their abusive husbands. This problem was exacerbated by a lack of alternative housing in the country. Women's advocacy groups also complained about the small number of state-supported shelters for battered women.

Paying for sexual activity is illegal, as is pimping; however, selling sex is not illegal. Due to a crackdown on prostitutes who work along major thoroughfares and at truck stops, much of the prostitution industry moved to brothels, massage parlors, or agencies offering escort services. Since 1997 the total estimated numbers of prostitutes has declined by 45 percent; however, police believed that this apparent decline may have resulted from much greater numbers of women working in brothels, or so-called agencies, who were not captured by the statistics. Police estimated that there were 7,000 prostitutes in the country of whom 3,000 worked in one of the 700 agencies in operation and 3,400 worked in hotels, pubs, discos, and on the streets. The remaining 600 prostitutes worked on major thoroughfares and at truck stops.

Trafficking in women for the purpose of sexual exploitation was a problem (see Sections 6.c. and 6.f.).

While there are no laws specifically addressing sexual harassment, social awareness of the problem continued to increase, and there are mechanisms to deal with the problem. For example, the Criminal Code states that whoever takes advantage of a position of power in a relationship to gain sexual gratification may be sentenced to up to 3 years in prison. According to a Supreme Court advisory opinion, such a relationship can occur between employers and employees, between supervisors and subordinates, or between teachers and students; however, this provision can be invoked only when alleged sexual harassment occurs between a supervisor and an individual in a subordinate position. Abuse of power cannot be claimed when harassment occurs between persons of equal rank. In May a former director of a hospital emergency ward charged in 2000 of sexually harassing 6 nurses was sentenced to 16 months in prison (suspended) and 4 years probation.

The Constitution provides for equal rights regardless of gender and grants women equal rights with men in all areas of family, political, social, and economic life, including equal compensation for work of similar value. However, in practice women frequently were paid less for equivalent work, mainly held lower level positions, were discharged more quickly, and were less likely to be promoted than men. The 2001 government statistical bulletin indicated that men had a higher employment rate (52.5 percent) than women (39 percent) and that women had a higher unemployment rate. In August the unemployment rate was 17.4 percent, and 52.7 percent of those unemployed were women. Despite having a generally higher level of education, women earned on average 30 percent less than men. In January the labor code was amended to prohibit discrimination in hiring, with the burden of proof put on the employer to prove that discrimination was not used. Although women had access to a number

of previously forbidden careers, they still were prohibited from working underground or in jobs that require heavy lifting. Apart from the Constitution, there is no other legal provision for equal rights for women.

Nevertheless women were employed in a wide variety of professions and occupations, and a number of women occupied high positions in government and in the private sector. Both men and women had the right to take time off to care for a sick child. The pension law requires mandatory earlier retirement for women at age 60 (age 65 for men), and as a result women got approximately 60 percent of the average pension that men received. However, in 2000 the Constitutional Tribunal ruled that the law setting retirement age at 60 for women and 65 for men was discriminatory, as it reduced women's chances for promotion and better pensions. Based on this ruling, women can appeal to the labor court if employers insist that they retire at 60.

The Ombudsman for Human Rights monitors the rights of women within the broader context of human rights. Observers noted that the broad scope of the office's mandate diluted its ability to function as an effective advocate of women's issues. There are several women's rights NGOs; among the most notable are the Polish Foundation for Women and Family Planning and the Women's Rights Center. These groups were active advocates of gender equality and advanced their goals through research, monitoring, and publishing. There are several church-sponsored women's advocacy organizations, but their cooperation with other women's NGOs was limited.

Children

The Constitution extends some state protection to the family and children, and there is a Sejm-appointed Ombudsman for Children's Rights.

The Ombudsman--mandated to protect children from violence, cruelty, neglect, and other mistreatment--is the official point of contact for complaints about violations of human rights of children and submits requests to the appropriate law-enforcement or other authorities for action. The Ombudsman submits an annual report to the Sejm on the condition of children's rights and is empowered to suggest legislation to improve the human rights situation of children.

Education is universal and mandatory until age 18, and public schools are free. The Government sponsored some health programs targeted specifically at children, including a vaccination program and periodic checkups conducted in the schools; however, budget shortfalls prevented complete implementation of these programs. Although child abuse occurred, there was no societal pattern of such abuse. The law prohibits violence against children. A provision of the Criminal Code provides that those who physically or psychologically abuse a juvenile may receive a prison sentence of 3 months to 5 years. If the victim attempts suicide the sentence is increased, as it is if the perpetrator is found to have acted with extreme cruelty. However, abuse rarely was reported, and convictions for child abuse also were rare. There were no procedures in schools to protect children from abuse by teachers, and the teachers' work code provides legal immunity from prosecution for the use of corporal punishment in classrooms.

The law prohibits child prostitution; however, child prostitution was a problem. The Penal Code states that anyone who, with the purpose of obtaining a material benefit, incites a minor to prostitution or facilitates such prostitution is subject to a sentence from 1 to 10 year's imprisonment.

Trafficking in children was a problem (see Section 6.f.).

Men and women reach majority at the age of 18 under the Civil Code; however, a woman can reach majority at the age of 16 if she has entered into marriage with the consent of her parents and the guardianship court. In addition, men are not permitted to marry without parental consent until the age of 21, whereas women may do so at the age of 18 (see Section 1.f.).

Persons with Disabilities

There was no discrimination against persons with disabilities in employment, education, or in the provision of other state services. There were approximately 5.5 million persons with disabilities in the country by year's end. In 2001 the Central Bureau of Statistics reported that approximately 17 percent of persons with disabilities able to work were unemployed, roughly equivalent to the national unemployment rate. Advocacy groups claimed that the percentage was much higher. The law allows individuals from certain disability groups to take up gainful employment without the risk of losing their disability benefits. Approximately 46 percent of the persons with disabilities had no more than an elementary school education, compared with 32 percent of those without disabilities, and only 4 percent had a university education, compared with 9 percent of persons without disabilities.

The law creates a state fund for the rehabilitation of persons with disabilities that derives its assets from a tax on employers of over 50 persons (unless 6 percent of the employer's work force are persons with disabilities). In 2001 the fund had approximately \$375 million (1.5 billion PLN) at its disposal, but its management encountered difficulties, including frequent changes in leadership. During the year, the fund disbursed 55 percent of its budget to local governments, while the remaining funds were allocated to special, national programs administered by the fund. In addition, the law prohibits the fund's use to assist children under 16 years of age with disabilities.

There were reports of some societal discrimination against persons with disabilities.

The law mandates access to buildings for persons with disabilities; however, public buildings and transportation generally are not accessible to persons with disabilities. Implementation falls short of rights set forth in the legislation since the law provides only that buildings "should be accessible."

National/Racial/Ethnic Minorities

The law provides for the educational rights of ethnic minorities, including the right to be taught in their own language. There were an estimated 50,000 Lithuanians in the country, and the issue of Lithuanian minority rights including language instruction, was addressed routinely during governmental talks. There were 10 Lithuanian-language textbooks in use during the year at different education levels. The Ministry of Education fully financed their publication and used Lithuanian minority representation in the development of the texts.

According to its leaders, the Romani community, numbering around 30,000, faced disproportionately high unemployment and was hit harder by economic changes and restructuring than were ethnic Poles. Societal discrimination against Roma, who have been considered a national minority since 1998, was commonplace, and some local officials discriminated against Roma in the provision of social services. Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, the media, and education. The Government cooperated with local governments to develop and finance programs to assist the poorest Roma. Some local governments became more active in dealing with the problems of local Romani communities. In 2001 the Government began a pilot project to help the Romani community in the Province of Malopolska. The goals of the program are to increase the number of Roma completing high school, help fight unemployment, and improve health care and safety for Roma. Project funds--which increased fivefold during the year to \$650,000 (2.6 million PLN)--were spent for books, training liaison staff with the Romani community, and for improving the educational and residential infrastructure in Romani communities.

There were occasional incidents of skinheads clashing with Roma and racially motivated violence directed at Roma. In August 2001, a group of teenagers vandalized automobiles and other Romani vehicles at a resort camp where a Romani family was vacationing; police arrested three suspects, and the case remained pending at year's end.

In March several thousand students, journalists, and politicians repeated their efforts of 2001 in removing vulgar and racist slogans--directed against various ethnic and racial minorities--from walls in the city of Lodz.

The small Ukrainian and Belarussian minorities occasionally experienced petty harassment and discrimination. Individuals of African, Asian, or Arab descent also reported isolated incidents of verbal, physical and other types of abuse. For example, in July two Polish men in Krakow shouted racial slurs at one foreigner of African descent and one African-American foreigner and assaulted them. The legal proceedings in the case were ongoing at year's

The German minority in Opole Province makes up one-third of the 1 million inhabitants of this area that was part of Germany prior to World War II, and 2 members of the German minority party are members of Parliament (see Section 3). Some members of the community continued to complain of inadequate use of German in the province's schools.

Section 6 Worker Rights

a. The Right of Association

The law provides that all workers, including civilian employees of the Armed Forces, police, and frontier guards have the right to establish and join trade unions of their own choosing, and workers exercised these rights. The law sets minimum size requirements for establishing a trade union: 10 persons may form a local union, and 30 may establish a national union. Unions, including interbranch national unions and national interbranch federations, must

be registered with the courts. A court decision refusing registration may be appealed to an appeals court. The existing law does not give trade unions the freedom to exercise their right to organize all workers. For example, workers on individual contracts cannot form or join a trade union. In state-owned enterprises, such as the health sector, water, and forestry, there were cases in which workers had their normal employment contract terminated and replaced by an individual contract that took away rights they formerly enjoyed as permanent employees.

The number of officially registered national-level unions remained at approximately 360. No precise data existed on work force unionization, although according to press reports, 14 percent of the total workforce were members of trade unions.

As a rule, newly established small- and medium-sized firms were nonunion, while union activity in most cases carried over into privatized (former state-owned) enterprises. The Independent Self-governing Trade Union (NSZZ) Solidarity had a verified regular membership of nearly 1 million. Solidarity continued successful efforts to open local chapters in supermarkets, particularly in Wroclaw, Poznan, and Warsaw. Small spin-offs from mainstream Solidarity include the rival factions Solidarity '80 (250,000 members), August '80, and the Christian Trade Union Solidarity (Popieluszko). There were no reliable estimates of membership in the latter two unions.

The other principal national unions are those affiliated with the All-Poland Trade Union Alliance (OPZZ), the formerly Communist-aligned confederation established in 1984 as the sole legal alternative to the then-outlawed NSZZ Solidarity, and its teachers' affiliate, the Polish Union of Teachers (ZNP). The OPZZ reported that its membership was approximately 1.3 million of whom 870,000 were employed. However, this figure was unverified, and independent surveys suggested that its regular dues-paying membership was considerably less than Solidarity's. A survey found that Solidarity represented approximately 7.6 percent of all Polish workers, while the OPZZ represented only 3.6 percent (one estimate put OPZZ membership at approximately 700,000 to 800,000 workers). A 1999 State Labor Inspectorate study reported that of approximately 27,000 local union organizations, Solidarity had 13,000 organizations, the OPZZ had 11,000 organizations, and Solidarity '80 had 320 organizations. Numerous smaller unions also existed.

During the year, trade unions took a lower profile in politics. In the September 2001 elections, significantly fewer union leaders were elected to Parliament than in the 1997 parliamentary elections. Under the 1997 Constitution, trade unions themselves may no longer conduct political campaigns, although their members may run as political party candidates.

The law prohibits antiunion discrimination; however, labor leaders reported that employers discriminated against workers who attempted to organize or join unions, particularly in the growing private sector. The law also did not prevent employer harassment of union members for labor activity; there were unconfirmed reports that some employers sanctioned employees who tried to set up unions. The ICFTU alleged that the sanctions provided in the law against acts of antiunion discrimination were not sufficiently dissuasive.

Unions have the right by law to join labor federations and confederations and to affiliate with international labor organizations. Independent labor leaders reported that these rights were observed in practice. Solidarity is a full member of the International Confederation of Free Trade Unions (ICFTU), the World Confederation of Labor, and the European Trade Union Confederation.

b. The Right to Organize and Bargain Collectively

The law provides for and protects enterprise-level collective bargaining over wages and working conditions. The Tripartite Commission (unions, employers, and the Government), chaired by Labor Minister Jerzy Hausner, is the main forum that determines national-level wage and benefit increases in such politically sensitive areas as the so-called budget sector (health, education, and public employees), while rendering opinions on pension indexation, energy pricing, and other important aspects of social policy. The Commission served as an important forum in which the social partners aired differences, discussed grievances, and often negotiated agreements before problems erupted into social conflict.

The law on collective bargaining does not require union membership figures to be verified or based on dues-paying members for unions to be considered "representative" negotiating partners for management and government. Solidarity protested some unions' (largely OPZZ affiliates) participation in negotiations with the Government on the grounds that their membership figures remained unproved.

Many disputes arose because of the weakness of the employer side of the union/employer/Government triangle. Key state sector employers (largely in heavy industry and the budget sector) remained unable to negotiate

independently with organized labor without the extensive involvement of Government ministries to which they are subordinate, although the Government repeatedly stated that it did not intend to be drawn into labor disputes. This weakness complicated and politicized the Government's labor relations system.

The law provides for parties to take disputes first to labor courts, then to the prosecutor general, and, in the last resort, to the Supreme Court. In a typical year, Solidarity takes several thousand cases to labor courts, several hundred to the Prosecutor General, and dozens to the Supreme Court for resolution. In an overwhelming majority of these cases, the courts ordered employers to correct practices or reinstate dismissed workers, or ordered unions to reimburse employers for activity found to be illegal. However, penalties are minimal and are not an effective deterrent.

Unions have the right to strike except in "essential services--uniformed services, state administration, and local government--where they only have the right to protest; however, labor leaders complained that the 1991 Act on Collective Dispute Resolution prescribes an overly lengthy process before a strike may be called. Employers considered the law too lenient, since a vote of only one-quarter of the workforce can call a strike. As a result, a majority of strikes were technically "illegal" because one or both of the sides did not follow each step exactly as required by law. Labor courts acted slowly on deciding the legality of strikes, while sanctions against unions for calling illegal strikes, or against employers for provoking them, were minimal. Arbitration is not obligatory and depends on the agreement of disputing parties. Unions alleged that laws prohibiting retribution against strikers are not enforced consistently and that fines imposed as punishment were so minimal that they were ineffective sanctions to illegal activity. Workers who strike in accordance with the law retain their right to social insurance but not to pay. However, if a court rules a strike illegal, workers may lose social benefits, and organizers are liable for damages and may face civil charges and fines. The social partners (unions, employers, and the Government) continued to work out ambiguities in dispute resolution mechanisms provided for in the Labor Code.

There were 23 strikes during the year. In February workers went on strike at the Gdynia Shipyard over proposed layoffs and the management cutting out sausage from soup previously provided for yard workers. In May there was a strike at the Szczecin Shipyard; workers occupied the yard and demanded back pay. Later protests led to the announcement of a government revival package for the yard, but workers at the yard remained restless. In June workers began occupying the Ozarow Cable Factory near Warsaw to protest plans by a new owner to close the plant. On the night of November 25-26, hundreds of riot police and private security guards removed protestors by force to allow the factory owner to remove equipment. Several days of street clashes ensued, and calm was restored only after the owner stopped removing equipment. Protesters claimed that the police used excessive force and that the private security guards attacked the picketers while on public property. In December the Labor Minister suggested that a special economic zone be set up in the Ozarow area to attract investors and create jobs. He also proposed extending small loans to former factory workers.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor

The law prohibits forced or bonded labor, including by children, and there were no reports such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment

The law contains strict legal prescriptions about the conditions under which children may work. The Labor Code forbids the employment of persons under the age of 15. Those between the ages of 15 and 18 may be employed only if they have completed primary school and if the proposed employment constitutes vocational training and is not harmful to their health. The age requirement rises to 18 years if a particular job might pose a health danger.

The State Labor Inspectorate (PIP) reported that increasing numbers of minors work, and that many employers violate labor rules in employing them (by underpaying workers, paying them late). Inspectors found violations on stud farms, in restaurants, and, in some instances, in small private sector businesses and factories. Sanctions for the illegal employment of children range from warning letters to orders to cease the work of underage employees. These orders can be enforced through the police to demand the transfer of underage employees or shut down all or part of the offending workplace, or, working through the Ministry of Labor, to impose fines ranging from \$5 to \$125 (20 to 500 PLN) per offense. Cases may also be referred to an administrative tribunal, which can levy fines of up to \$1,250 (5,000 PLN). Jail sentences may be imposed if the infractions are serious enough; such cases generally involve serious injury or death. In 2001 the PIP conducted 1,325 investigations involving some 12,000 possible underage employees. Fines were levied in 417 of these cases, amounting to approximately \$33,000 (133,000 PLN).

On May 15, the Government signed the International Labor Organization Convention 182 on the Worst Forms of Child Labor.

e. Acceptable Conditions of Work

The Ministry of Labor, the unions, and employers' organizations negotiate a revised national minimum wage every 3 months. The national minimum monthly wage remained unchanged at approximately \$190 (760 PLN); it does not provide a decent standard of living for a worker and family. A large percentage of construction workers and seasonal agricultural laborers from the former Soviet Union earned less than the minimum wage. The large size of the informal economy and the small number of state labor inspectors made enforcement of the minimum wage very difficult. With unemployment high, workers often agreed to inferior working conditions and lower pay to find or keep their jobs.

The standard legal workweek is 42 hours, which allows 6- or 7-hour days, including at least one 24-hour rest period. The law requires overtime payment for hours in excess of the standard workweek.

The Labor Code defines minimum conditions for the protection of workers' health and safety. Provisions are strict and extensive; however, enforcement is a major problem because the PIP is unable to monitor the state sector sufficiently, or the private sector, where a growing percentage of accidents take place. In the 85,275 work-related accidents reported during 2001, 548 individuals were killed and 1,155 seriously injured. During the first 6 months of the year, 232 workers were killed and 460 were seriously injured. The Government's Central Statistical Office reported that while most accidents were in the public sector, most serious accidents occurred in the private sector, where proportionally more deaths also occurred. Solidarity contended that the problem lies not in the law, which establishes safe standards, but in enforcement, because employer sanctions for illegal behavior are minimal. Standards for exposure to chemicals, dust, and noise were exceeded routinely. In addition, there was a lack of clarity concerning which government or legislative body had responsibility for enforcing the law. The PIP may shut down workplaces in which it finds unsafe conditions. In 2001--the last year for which figures were available--there were nine shutdowns in workplaces. Workers may remove themselves from dangerous working conditions without losing their jobs, but there were reports that fears of such loss prompted some to stay on the job.

The National Unemployment Office estimated that as many as 100,000 to 150,000 foreigners were working illegally in the country. Other estimates ranged from 250,000 to 1.5 million persons, the majority working in jobs and for wages that were deemed unacceptable to citizens. Most of the illegal residents came from the countries of the former Soviet Union, Sri Lanka, and Afghanistan, although an increasingly larger number were coming from Southeast Asia, particularly Vietnam. The country's relatively high wages compared to those prevailing in the source countries and its status as an EU candidate country mainly were responsible for this phenomenon.

f. Trafficking in Persons

The law prohibits trafficking in persons; however, the country was a source, transit point, and destination for trafficked persons, primarily women and girls and to a lesser extent boys. Since statistics on prostitution did not distinguish victims of trafficking from those willfully engaged in prostitution, escort services, pornography, and other aspects of the sex trade, the scope of the trafficking problem was difficult to define. The international NGO La Strada estimated that 60 percent of foreign women who worked as prostitutes in the country were victims of trafficking.

Several provisions in the Criminal Code specifically address the problem of trafficking. The law prohibits trafficking in human beings and pimping and imposes sentences of up to 10 years on those convicted. It also bans recruiting or luring persons into prostitution; penalties for this offense are also up to 10 years. The most severe sentences are reserved for individuals trafficking in children and those luring women into prostitution abroad.

The scope of trafficking in the country was likely to be much larger than the numbers reflected in prosecutions and arrests for specific violations of the criminal code. In 2001 the Government prosecuted 34 cases of trafficking involving 42 victims and 345 cases of luring persons into prostitution.

Polish women and children were trafficked to western European countries such as Germany, Italy, and the Czech Republic for sexual exploitation (see Section 5).

Women and girls were trafficked to and through Poland from countries such as Ukraine, Bulgaria, Romania, Belarus, and Russia. Ukraine was the largest single source of foreign women trafficked in Poland. Women from Bulgaria tended to be from the Turkish and Romani minorities. Of the estimated 7,000 prostitutes in the country,

2,100 (30 percent) were estimated to be of foreign origin. Women and girls who were trafficked into Poland were recruited from areas with low socioeconomic conditions, sometimes quite openly. Those women and girls from the lowest socioeconomic status were most vulnerable to trafficking and subjected to the worst conditions. For example, Roma and ethnically Turkish Bulgarians tended to be employed as prostitutes on highways. They may spend a few months in Poland before they are trafficked further west. In contrast women from other countries of Eastern Europe also were trafficked into agencies run as brothels. Educated Polish and Russian women were more likely than others to be employed voluntarily by escort services.

Victims were trafficked through such means as fake employment offers, arranged marriages, fraud, and coercive measures. Some may believe that they were accepting employment as waitresses, maids, or nannies abroad. While they were en route to what they believed to be their destinations, their passports and identity papers were taken from them. Stripped of their personal identity, the women and girls were kept under the control of the traffickers through fear and intimidation. They were required to serve a minimum number of clients each day to earn their keep. They were threatened with violence, and those who resisted were raped or beaten. If they tried to flee, their legs may be broken. There are also reports of victims being killed by their traffickers.

In the last few years, trafficking has become increasingly organized and has been associated with a rampant growth in document fraud. As many as 90 percent of the women and girls trafficked in the country had false travel documents, and the trafficking of a single woman usually involved a network of criminals. One criminal will recruit the woman; a second will provide false travel documents and traffic her across the border; and a third will supervise her work with clients, functioning as a pimp. In one example offered by police, a Bulgarian woman was detained several different times by police, each time with a new identity and passport. La Strada and police also reported large-scale auctions of women held in Warsaw and other cities. Prices paid for women and girls who were trafficked reportedly started at \$1,500 (6,000 PLN). Victims usually were trafficked by nationals from the same source country; for example, Bulgarian women were trafficked by Bulgarians and Ukrainians by Ukrainians. Foreign traffickers systematically paid a percentage of their receipts to Polish traffickers operating out of the same region.

Children were victims of trafficking, although it was difficult to estimate to what extent (see Section 5). Legal authorities dealt with child traffickers more severely, in part because laws on statutory rape were easier to prosecute. As a result, the activity has been driven completely underground. Child prostitution is a crime, while prostitution of adults is neither banned nor regulated by law, making it more difficult for the police to pursue. The authorities did not always recognize trafficking in children since minors can be trafficked on false documents identifying them as adults. Of the 589 cases in 2001 initiated by prosecutors, 43 involved victims who were minors. In 2001 at a hotel outside of Warsaw, police raided an auction where women and children were being sold to a human trafficking ring for use in brothels and pornography production.

Since the border guards and police may regard trafficking victims as criminals who have violated passport laws, victims were afraid to turn to officials for help. Victims have no legal status, and there were no public resources available to assist them. Victims usually were deported as soon as possible to avoid any expenses connected with keeping them in detention. Victims were not informed about their legal status or rights. Many were unaware and were not told that under Polish law prostitution is not a crime. When detained by the police, they may be deported to the border where they were met by traffickers who quickly provided them with new travel documents and returned them to the country. There was no provision to allow victims to remain in the country long enough to pursue legal action against their traffickers.

Numerous NGOs were involved in anti-trafficking initiatives and victim services. Often these NGOs and educational institutions worked closely with local authorities to identify victims of trafficking and to develop training programs for local government providers. La Strada--the only NGO dealing exclusively with trafficking--cooperated with shelters such as Caritas and other Catholic organizations. These organizations provided a range of services, including victims' assistance hot lines, safe accommodation, therapy and psychological support. In addition, they assisted by providing victims with contacts who can help with legal problems and reintegration into society.

La Strada also provided training on prevention and victim support to professionals such as police, boarder guards, prosecutors, judges, social workers, teachers, and journalists. Its "Guardian Angel" program, developed in conjunction with the Helsinki Foundation, was aimed at training social workers to help victims with legal issues, so they could be advocates for the victims before the courts, police, and prosecutors. La Strada conducted various types of training, including awareness training for police, training of Helsinki Foundation personnel on trafficking issues and trafficking seminars to university students. In November La Strada worked with the Government to coordinate an inter-ministerial roundtable to develop a national plan to combat trafficking in persons.